

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE NEW ENGLAND COMPOUNDING)	
PHARMACY, INC. PRODUCTS LIABILITY)	
LITIGATION)	
<hr/>		MDL No. 2419
THIS DOCUMENT RELATES TO:)	Dkt. No 1:13-md-2419 (RWZ)
)	
Suits Naming Specialty Surgery Center,)	
PLLC)	
)	

NOTICE OF FILING

Defendants Specialty Surgery Center, PLLC; Kenneth R. Lister, MD; and Kenneth Lister, MD, PC (collectively “SSC Defendants”; individually “SSC” and “Dr. Lister”) hereby file this notice to update the Court regarding the status of the declaratory judgment action related to the SSC Defendants pending in the Middle District of Tennessee.

1. As the Court is aware, State Farm filed an action in the U.S. District Court for the Middle District of Tennessee for a declaration of its obligations under an insurance policy issued to SSC, under which Dr. Lister is also an insured.
2. The PSC filed a notice at Dkt. Dkt. 2239 alerting the Court to the filing of the PSC’s motion to stay the SSC declaratory judgment action.
3. On September 23, 2015, the Middle District of Tennessee issued an order granting in part and denying in part the PSC’s motion. The order is attached as Exhibit 1.

4. In short, Honorable Magistrate Judge Joe Brown ordered that the question of the viability of the Plaintiffs' product liability claim against SSC be certified to the Tennessee Supreme Court. The parties are to submit a proposed request for certification to presiding Chief District Judge Kevin Sharp by October 23, 2015.

Respectfully submitted,

GIDEON, COOPER & ESSARY, PLC

/s/ Chris J. Tardio

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* Admitted pursuant to MDL Order No. 1.

** Admitted *pro hac vice*.

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the CM/ECF system will be served electronically to the registered participants identified on the Notice of Electronic Filing and copies will be e-mailed or mailed via regular U.S. mail to those participants identified as unregistered this 1st day of October, 2015.

/s/ Chris J. Tardio

Chris J. Tardio